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October 7, 2013

VIA HAND DELIVERY and US MAIL

Mr. Joey Peters
Staff Writer
Santa Fe Reporter
132 E. Marcy Street
Santa Fe, New Mexico 87501

**Re: Robert Ortiz v. New Mexico Department of Health;
First Judicial District Court No. D-101-CV-2012-01876**

Dear Mr. Peters:

Enclosed please find a Subpoena directed to your attention. Please note that the sole purpose of the Subpoena is to obtain the designated documents listed in the Subpoena and will require no testimony from any person whatsoever.

We will promptly pay reasonable expenses related to the production of the records. Please let me know if prepayment is required.

The rule allows compliance by mailing or delivering the designated documents to my office by the designated date.

If you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,



Jennifer D. Hall

JDH/

Enclosure

c: Diane Garrity w/enclosure

Paula E. Ganz w/ enclosure

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A PROFESSIONAL ASSOCIATION

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**STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT COURT**

**No. D-101-CV-2012-01876
Honorable Sarah M. Singleton**

ROBERT ORTIZ,

Plaintiff,

v.

NEW MEXICO DEPARTMENT OF HEALTH,

Defendant.

SUBPOENA FOR PRODUCTION OR INSPECTION¹

SUBPOENA FOR
[XX] DOCUMENTS OR OBJECTS²
[] INSPECTION OF PREMISES²

TO: Mr. Joey Peters
Staff Writer
Santa Fe Reporter
132 E. Marcy Street
Santa Fe, New Mexico 87501

YOU ARE HEREBY COMMANDED ON: Monday, October 28, 2013 before 5:00 p.m.

TO:

[XX] permit inspection and copying of the following described books, papers, documents or tangible things:

- 1) All documents, correspondence, emails, spread sheets, memoranda, affidavits, recordings, faxes and notes, whether handwritten or on the computer, received from Mr. Robert Ortiz from 2009 to the present;
- 2) All documents, correspondence, emails, spread sheets, memoranda, affidavits, recordings, faxes and notes, whether handwritten or on the computer, sent or given to Mr. Robert Ortiz from 2009 to the present;

- 3) All documents, correspondence, emails, spread sheets, memoranda, affidavits, recordings, faxes and notes, whether handwritten or on the computer, received from Ms. Diane Garrity or her law office staff or from Ms. Paula Ganz or her law office staff concerning Mr. Robert Ortiz from 2009 to the present;
- 4) All documents, correspondence, emails, spread sheets, memoranda, affidavits, recordings, faxes and notes, whether handwritten or on the computer, sent or given to Ms. Diane Garrity or her law office staff or from Ms. Paula Ganz or her law office staff concerning Mr. Robert Ortiz from 2009 to the present;
- 5) Any notes and/or recordings you have made pertaining to any conversations or interactions (whether telephonic or in person) you have had with Mr. Ortiz from 2009 to the present, whether handwritten, typed or recorded.

ABSENT A COURT ORDER, THE ABOVE DATE SHALL NOT BE LESS THAN FIFTEEN (15) DAYS FROM THE DATE YOU RECEIVED THIS SUBPEONA. UNLESS ORDERED BY THE COURT, DO NOT RESPOND TO THIS SUPBOENA BEFORE THAT DATE.

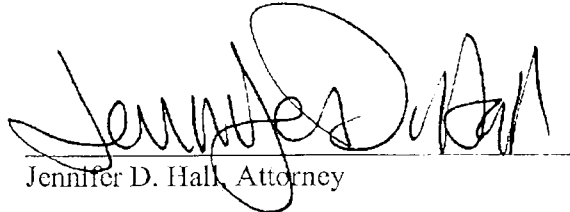
DO NOT RESPOND TO THIS SUBPOENA FOR PRODUCTION OR INSPECTION IF YOU ARE SERVED WITH WRITTEN OBJECTIONS OR A MOTION TO QUASH UNTIL YOU RECEIVE A COURT ORDER REQUIRING A RESPONSE.

You may comply with this subpoena for production or inspection by providing legible copies of the items requested to be produced by mail or delivery to the attorney whose name appears on this subpoena. You may condition the preparation of the copies upon the payment in advance of the reasonable cost of inspection and copying. You have the right to object to the production pursuant to this subpoena as provided below.

READ THE SECTION "DUTIES IN RESPONDING TO SUBPOENA."

IF YOU DO NOT COMPLY WITH THIS SUBPOENA you may be held in contempt of court and punished by fine or imprisonment.

October 7, 2013


Jennifer D. Hall, Attorney

RETURN FOR COMPLETION BY SHERIFF OR DEPUTY

I certify that on the _____ day of _____, in _____ County, I served this subpoena on _____ by delivering to the person named a copy of the subpoena and a fee of \$_____ (*insert the amount of fee tendered or, if no fee is tendered, "none"*).³

Deputy sheriff

RETURN FOR COMPLETION BY OTHER PERSON MAKING SERVICE

I, being duly sworn, on oath say that I am over the age of eighteen (18) years and not a party to this lawsuit, and that on the _____ day of _____, _____ in _____ County, I served this subpoena on _____ by _____ to the person named a copy of the subpoena ~~and a fee of \$75.00.~~

Person making service

SUBSCRIBED AND SWORN to before me this _____ day of _____
(date).

Judge, notary or other officer authorized to
administer oaths

THIS SUBPOENA issued by or at request of:

MILLER STRATVERT P.A.

JENNIFER D. HALL

Attorneys for Defendants

P.O. Box 25687

Albuquerque, New Mexico 87125

(505) 842-1950

(505) 243-4408 Fax

jhall@mstlaw.com

CERTIFICATE OF SERVICE BY ATTORNEY⁴

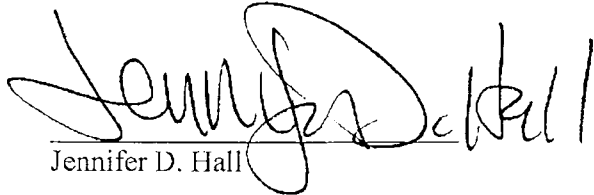
I hereby certify that a true and correct copy of the foregoing was mailed to the following counsel of record this 7th day of October, 2013:

Attorney for Plaintiff:

Diane M. Garrity
Serra & Garrity, P.C.
P.O. Box 8177
Santa Fe, New Mexico 87504
440 Cerrillos Road, No. 4
Santa Fe, New Mexico 87501
(505) 983-6956
(505) 982-3771 Fax
dgarrity@gmnmlaw.com

Attorney for Plaintiff:

Paula E. Ganz
Rio Grande 68, LLC
440 Cerrillos Road, Suite 4
Santa Fe, New Mexico 87501
(505) 603-4546
peganz68@ymail.com



Jennifer D. Hall

TO BE PRINTED ON EACH SUBPOENA

1. *This subpoena must be served on each party in the manner provided by Rule 1-005 NMRA. If service is by a party, an affidavit of service must be used instead of a certificate of service.*
2. *A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.*
3. *If a person's attendance is commanded one full day's per diem must be tendered with the subpoena, unless the subpoena is issued on behalf of the state or an officer or agency thereof. Mileage must also be tendered at the time of service of the subpoena as provided by the Per Diem and Mileage Act. See Section 38-6-4 NMSA 1978 for per diem and mileage for witnesses. See Paragraph A of Section 10-8-4 NMSA 1978 for per diem and mileage rates for nonsalaried public officers. Payment of per diem and mileage for subpoenas issued by the state is made pursuant to regulations of the Administrative Office of the Courts. See Section 34-9-11 NMSA 1978 for payments from the jury and witness fee fund.*

PROTECTION OF PERSONS SUBJECT TO SUBPOENAS

A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

Subject to Subparagraph (2) of Paragraph D below, a person commanded to produce and permit inspection and copying may, within fourteen (14) days after service of the subpoena or before the time specified for compliance if such time is less than fourteen (14) days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises or within fourteen (14) days after service of the subpoena may file a motion to quash the subpoena and serve the motion on all parties to the action. If an objection is served or a motion to quash is filed and served on the parties, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order

to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it:

- (1) fails to allow reasonable time for compliance,
- (2) requires a person who is not a party or an officer of a party to travel to a place more than one hundred miles from the place where that person resides, is employed or regularly transacts business in person, except as provided below, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or
- (3) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (4) subjects a person to undue burden.

If a subpoena:

- (1) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (2) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (3) requires a person who is not a party or an officer of a party to incur substantial expense to travel,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

DUTIES IN RESPONDING TO SUBPOENA

- (1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.
- (2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and

shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

- (3) A person commanded to produce documents or material or to permit the inspection of premises shall not produce the documents or materials or permit the inspection of the premises if a written objection is served or a motion to quash has been filed with the court until a court order requires their production or inspection.